

BUREAU OF AUTOMOTIVE REPAIR

LICENSING OF SMOG CHECK INSPECTORS AND REPAIR TECHNICIANS APPLICATION AMENDMENT

TITLE 16, CALIFORNIA CODE OF REGULATIONS, SECTION 3340.29

SECTION 100. CHANGE WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, section 100(b)(3), of the California Code of Regulations, the Bureau of Automotive Repair (BAR), Department of Consumer Affairs (DCA), hereby submits this written statement explaining why the proposed amendment to section 3340.29 contained within Chapter 1, Division 33, Title 16, California Code of Regulations¹ (CCR) do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

It has come to BAR's attention that its existing *Application for Initial Smog Check Inspector, and/or Smog Check Repair Technician License*, which is incorporated by reference in CCR section 3340.29, is not entirely clear as to one's ability, and legal right, to substitute comparable military training for other prescribed smog check training requirements. To remedy this deficiency BAR is seeking to modify its regulations with a Section 100 Change Without Regulatory Effect.

Specifically, Health and Safety Code (HSC) Section 44031.5 (d) reads:

“(d) Smog check technicians shall have the option to do hands-on work in lieu of written work in order to successfully complete the department certified training and retraining courses or may complete comparable military training as documented by submission of Verification of Military Experience and Training (V-MET) records in lieu of meeting any other training-related requirements of this section.”

CCR Section 3340.29(f) further states:

“(f) The selection of an examination may be based on, but is not limited to, the applicant's professional or vocational certifications, education, experience, and/or disciplinary and citation history, at the bureau's discretion.”

Also, BAR is seeking to include language, pursuant to Assembly Bill (AB) 1424 (Perea, Chapter 455, Statutes of 2011), notifying applicants that their license maybe suspended due to outstanding tax obligations.

Specifically, Business and Professions Code (BPC) Section 31(e):

¹ All references made hereafter to the California Code of Regulations apply to Title 16, Division 33, Chapter 1, unless otherwise specified.

“(e) Each application for a new license or renewal of a license shall indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid.”

Additionally, AB 1424 created BPC Section 494.5 which states in part:

494.5. (a) (1) Except as provided in paragraphs (2), (3), and (4), a state governmental licensing entity shall refuse to issue, reactivate, reinstate, or renew a license and shall suspend a license if a licensee’s name is included on a certified list.

(b)(1) “Certified list” means either the list provided by the State Board of Equalization or the list provided by the Franchise Tax Board of persons whose names appear on the lists of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code, as applicable.

(b)(4) “State governmental licensing entity” means any entity listed in Section 101, 1000, or 19420, the office of the Attorney General, the Department of Insurance, the Department of Motor Vehicles, the State Bar of California, the Department of Real Estate, and any other state agency, board, or commission that issues a license, certificate, or registration authorizing an individual to engage in a profession or occupation, including any certificate, business or occupational license, or permit or license issued by the Department of Motor Vehicles or the Department of the California Highway Patrol. “State governmental licensing entity” shall not include the Contractors’ State License Board.

(v) This section shall apply to any licensee whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code on or after July 1, 2012.

Lastly, BAR is seeking to update its address and other contact information due to the bureau’s move from Sacramento to Rancho Cordova during July of 2012.

The proposed changes include revisions to the application and minor grammatical edits. The application revisions are necessary in order to make it absolutely clear that comparable military experience and/or education can be used to satisfy the training requirements for examination and licensure as specified in Section 44031.5 of the Health and Safety Code (HSC), fulfill tax related notification mandates created by AB 1424’s amendments to BPC Section 31, and too update the bureau’s business address and other contact information.

The proposed changes will have the following benefits:

1. Will Improve Application Clarity.

At present, an applicant for examination and licensure as a Smog Check Inspector or Smog Check Repair Technician may be unaware of acceptable documentation for determining eligibility since the application erroneously omits language specifically identifying V-MET records as acceptable.

Incorporating the proposed language additions will make it clear to veterans returning to the civilian workforce in California that V-MET records are acceptable for demonstrating completion of the minimum experience or education requirements for examination and licensure.

Also, the addition of “hours of” in section three of the Inspector portion and section two of the Technician portion more clearly defines the unit of measure used in calculating course work requirements. Further the addition of “; OR” in the same sections clarifies the ability to use any of the four separate and distinct requirements fulfillment paths equally.

2. Will Reduce Administrative Costs.

At present, an applicant may be unaware that V-MET records may be used to augment and/or replace other training-related requirements for licensure and examination as a Smog Check Inspector/Repair Technician. As a result, applicants possessing V-MET records may not be using these records to demonstrate eligibility, and may subsequently have their applications denied. The reevaluation of these applications, which requires staff time and office resources to complete, may be curbed by clearly stating on the application the accepted methods for documenting the completion of the minimum eligibility requirements.

3. Will Provide Statutorily Mandated Notification.

At present, the application does not conform to requirements set forth in amendments to BPC Section 31 resulting from AB 1424. Section 31 of the BPC requires that “each application for a new license or renewal of a license shall indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid.”

4. Correct Bureau Contact Information.

During July of 2012, the bureau moved its headquarters location from Sacramento to Rancho Cordova. The nonsubstantive change will correct the bureau’s contact information on the application.

The changes being proposed do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision as HSC section 44031.5 and CCR section 3340.29 already provide the bureau authority to allow the use of V-MET records in lieu of other training-related requirements. The application in its current form includes an employer certification signature block that may be signed by an applicant's employer, supervisor, manager, or military supervisor, and BAR is presently accepting V-MET records as verification of completion of requisite education and experience for initial licensure and examination as a Smog Check Inspector and/or Repair Technician.